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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 BRADLEY ALLEN GRUBHAM,

10 Petitioner,

11 v.

12 MICHAEL OBENLAND,

Respondent.

CASE NO. C13-5646 RJB JRC

ORDER ON MOTION FOR  
CLARITY FROM CLERK

13 This matter comes before the Court on the Petitioner's Motion for Clarity from Clerk.  
14 Dkt. 120. The Court has considered the motion and remaining record.

15 Petitioner brought this case pursuant to 28 U.S.C. § 2254, challenging his conviction in  
16 state court of first degree assault. Dkt. 1. On February 8, 2017, a 42-page Report and  
17 Recommendation was filed, recommending that the petition be denied on the merits and a  
18 certificate of appealability not issue. Dkt. 93. The facts and procedural history are in the Report  
19 and Recommendation (Dkt. 93, at 1-7) and are adopted here by reference. On October 23, 2017,  
20 the Report and Recommendation was adopted, the petition dismissed, and a certificate of  
21 appealability did not issue. Dkt. 117. Petitioner filed a notice of appeal. Dkt. 119.  
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1 On October 25, 2017, Petitioner filed the instant pleading, “to request clarity in the  
2 requirement of a timely request for permission to appeal the district court’s decision [to] deny  
3 [his] petition for habeas corpus and motion for an evidentiary hearing.” Dkt. 120.

4 On October 26, 2017, the Clerk of the Court for the Ninth Circuit filed a letter addressed  
5 to Petitioner informing him that:

6 The Clerk's Office of the United States Court of Appeals for the Ninth Circuit has  
7 received a copy of your notice of appeal and/or request for a certificate of  
8 appealability.

9 **A briefing schedule will not be set until the court determines whether a  
certificate of appealability should issue.**

10 Absent an emergency, all subsequent filings in this matter will be referred to the  
11 panel assigned to consider whether or not to grant the certificate of appealability.  
12 All subsequent letters and requests for information regarding this matter will be  
added to your file to be considered at the same time the cause is brought before  
the court.

13 Dkt. 121.

14 In light of the Ninth Circuit Clerk of the Court’s letter to Petitioner (Dkt. 121) his Motion for  
15 Clarity from Clerk (Dkt. 120) should be stricken as moot.

16 **ORDER**

17 Accordingly, it is **ORDERED** that:

18 Petitioner’s Motion for Clarity from Clerk (Dkt. 120) **IS STRICKEN AS MOOT.**

19 The Clerk is directed to send uncertified copies of this Order to all counsel of record,  
20 Judge Creatura, and to any party appearing *pro se* at said party’s last known address.

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1 Dated this 3<sup>rd</sup> day of November, 2017.

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4 ROBERT J. BRYAN  
United States District Judge